

REMARKS

In the Office Action mailed November 22, 2006, the Examiner initially rejected claim 12 under 35 USC §112, first paragraph, as failing to comply with the written description requirement. By the present response, claim 12 has been cancelled from the pending application.

In the Office Action, claims 1, 2, 7-9 and 12 were rejected under 35 USC §102(b) as being anticipated by the Gardner UK Patent Application 2,134,885. Claims 10 and 11 were rejected under 35 USC §103(a) as being unpatentable over the Gardner '885 patent application. The rejections made by the Examiner in the Office Action of November 22, 2006 are based upon the same Gardner '885 reference relied upon by the Examiner in the previous Office Action of May 5, 2006.

By the present response, independent claim 1 has been amended to more particularly claim the container of the present application and more clearly define over the teachings of the cited Gardner '885 application. Based upon the amendments made to the claims, as well as the following arguments for allowance, reconsideration of the substantive rejection of the claim is respectfully requested.

As amended, independent claim 1 is directed to a container that includes a base and a pair of opposing side walls that each extend upward from and substantially perpendicular to the base. As amended, claim 1 indicates that each of the side walls include a plurality of receiving slots that are spaced along the length of the side walls. Support for this added claim language is clearly set forth in the specification of the application and the drawing figures.

Independent claim 1 further requires at least one partition that is receivable within the receiving slots on each of the opposing sidewalls such that the partition is selectively positionable between the side walls along the length of the side walls to adjust an interior length of the container. This feature allows the container of claim 1 to be utilized with coverslips having different lengths since the interior length of the container can be adjusted by selectively moving the partition along the length of the side walls.

In addition to this limitation, claim 1 requires the partition to be perpendicular to the side walls and have projections located at or near the periphery of the opposing edges of the partition. Further, claim 1 indicates that the projections are positioned adjacent to the side walls to reduce an interior width of the container. In this manner, the projections included on the partition reduce the interior width of the container such that the container can be utilized with coverslips having different widths, as best shown in Figs. 5 and 6 of the present application. As required by claim 1, the partition of the container allows both the interior length of the container and the interior width of the container to be adjusted. In this manner, the partition allows the container of claim 1 to be utilized with coverslips having different lengths and different widths.

In rejecting independent claim 1, the Examiner relied upon the Gardner '885 reference. In reviewing the Examiner's rejection, it is the applicant's belief that the Examiner has misinterpreted the teachings of the Gardner '885 reference.

The Gardner '885 reference is directed to a drawer divider that includes a pair of elongated support members 3 attached to the interior surfaces 9, 10 of the drawer 1. As best shown in Figs. 1 and 3, each of the support members 3 is bent or molded to have a central channel member 4 that, when viewed in cross-section (Fig. 3), extends into the open interior of the drawer from the respective interior surface 9 or 10. However, as can be clearly understood in Figs. 1 and 3, the distance the central channel 4 extends into the drawer interior is constant along the entire length of the support member 3. Thus, the support members 3, including the central channel 4, define a constant width for the interior of the drawer.

As best shown in Fig. 1, the central channel member 4 includes one or more apertures 5 that are removed sections of the central channel member 4. The apertures 5 are sized to receive one or more rails 6 that extend perpendicular to the pair of spaced support members 3. Each of the rails 6 includes two abutting members that each have the same general cross-section as the support members 3, as best illustrated in Fig. 2. The

rails 6 can be selectively positioned between the support members 3 by selecting which of the apertures 5 formed in the support members 3 will receive the rail 6.

As can be clearly understood in Fig. 1, when the rails 6 are positioned between the spaced support members 3, the rails can adjust the length of the drawer from the interior surface 12 but do not adjust the width of the drawer. Instead, the width of the drawer remains constant; namely the width across the open interior of the drawer is defined by the distance from the central channel members formed on each of the spaced support members 3. Thus, when the rails 6 are selectively positioned within the apertures 5 formed in the support members, the rails 6 do not reduce an interior width of the drawer. Instead, the interior width of the drawer, as measured between the support members 3, is not modified by the support rails 6.

In rejecting claim 1, the Examiner stated that the partition required by claim 1 corresponds to the rail 6 shown in the Gardner '885 reference. According to the Examiner, the partition (rail 6) included projections 4 located at or near the periphery of a set of opposing edges of the partition (rail 6) wherein the partition is selectively positionable between the side walls such that the projections (4) reduce an interior width of the container. This finding by the Examiner misinterprets the teaching of the Gardner '885 reference.

As stated above, when the rails 6 are inserted into the drawer between the pair of spaced support members 3, the rails 6 do not reduce an interior width of the container. Instead, the width of the container remains constant whether the rails 6 are positioned between the support members 3 or not. Specifically, the width of the interior of the drawer is defined by the inner surface of the channel member 4 formed as part of the support member 3, not as part of the rails 6. Thus, the interior width of the drawer remains constant, regardless of whether the support rail 6 is positioned between the spaced support members 3.

Thus, the Gardner '885 reference does not teach or suggest, nor render obvious, the use of a partition that is able to both adjust the length of the container and adjust the

Application No. 10/806,728
Amendment Dated March 22, 2007
Reply to Office Action of November 22, 2006

width of the container. Further, the Gardner '885 reference does not teach any partition that includes projections located at or near the periphery of a set of opposing edges of the partition where the projections are positioned adjacent to the side wall to reduce an interior width of the container.

Based upon the above arguments for allowance, independent claim 1 is believed to be allowable over the Gardner '885 reference cited by the Examiner.

Claims 2, 7-11 depend directly or indirectly from claim 1 and are thus believed to be allowable based upon the above arguments for allowance, as well as in view of the subject matter of each of the claims.

The Examiner is invited to contact the applicant's undersigned attorney with any questions or comments, or to otherwise facilitate prosecution of the present application.

Respectfully submitted,

ANDRUS, SCEALES, STARKE & SAWALL, LLP

By 
Joseph D. Kuborn
Reg. No. 40,689

Andrus, Sceales, Starke & Sawall, LLP
100 East Wisconsin Avenue, Suite 1100
Milwaukee, Wisconsin 53202
Telephone: (414) 271-7590
Facsimile: (414) 271-5770